

Amendment No. 2 to HB2284

Coleman
Signature of Sponsor

AMEND Senate Bill No. 2297

House Bill No. 2284*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

63-1-149.

(a) On and after October 1, 2010, before employing or contracting with any person who would be providing direct patient care, for whom a background check has not been completed, a health care professional licensed under any chapter of title 63 or title 68, chapters 24 and 140, shall initiate and perform a "registry check" which for the purposes of this section is defined as:

(1) A state-by-state look in any state in which the person has lived in the previous seven (7) years of the national sex offender public registry website coordinated by the United States department of justice, including but not limited to the sexual offender registry maintained by the Tennessee bureau of investigation pursuant to title 40, chapter 39, part 2; and

(2) Any adult abuse registry maintained for any state in which the person has lived in the previous seven (7) years; and

(3) The department of health's elder abuse registry established pursuant to title 68, chapter 11, part 10.

(b) Should an applicant be listed on any of the registries listed above in subdivisions (a)(1)-(3), the health care professional shall not employ or contract with the person if the person would be providing direct patient care.

(c) A health care professional who complies with the requirements to perform registry checks under subsection (a), or relies on a documented representation provided by an entity with which the health care professional contracts that the person who will work in the office is not on any of these registries, shall not be subject to civil or criminal liability solely based upon the information provided through a registry check under this section. This immunity shall extend to a claim related to the professional's refusal to employ or contract with a person based on information obtained from a registry check.

(d) This section is not intended to apply to contracted, external staff who provide such services as cleaning services, maintenance of office or medical equipment or other services where direct patient contact is not intended.

(e) This section shall not apply to health care professionals licensed under title 63, chapter 12.

(f) The department of health shall post no later than October 1, 2010 in a conspicuous location on its website as well as the website of each applicable licensing board a link to all potential databases the health care professional would be required to check pursuant to subsection (a) above. In addition, each applicable licensing board shall notify all of its licensees at least annually through board newsletters of their obligations under this statute.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

68-11-271.

(a) Prior to employing or contracting with any person providing direct care to a resident or patient, for whom a background check has not been completed, a health care facility licensed under title 68 shall initiate and perform a "registry check" which for the purposes of this section is defined as:

(1) A state-by-state look in any state in which the person has lived in the previous seven (7) years of the national sex offender public registry website coordinated by the United States department of justice; and

(2) Any adult abuse registry maintained for any state in which the person has lived during the previous seven (7) years; and

(3) The department of health's elder abuse registry established pursuant to title 68, chapter 11, part 10.

(b) A health care facility may not employ or contract with any person providing direct care to a resident or patient if that individual is listed on any of the registries listed above in sections (a)(1)-(3).

(c) If a health care facility contracts with a company, organization, or agency that provides or arranges for the provision of direct care to a resident or patient, the facility satisfies the requirements of subsection (a) by:

(1) Receiving and retaining written documentation that an individual supplied by that company, organization, or agency is not listed on any of those registries, or;

(2) Relying on a written contractual representation that such company, organization, or agency conducts the name searches required by subdivisions (a)(1)-(3), and any individual supplied by that company, organization, or agency is not listed on any of those registries; or

(3) Satisfying both (1) and (2).

(d) This section is not intended to apply to contracted, external staff who provide such services as cleaning services, maintenance of office or medical equipment or other services where direct patient contact is not intended.

(e) A health care facility that complies with the requirements to perform a "registry check" under subsection (a), (c), or both, shall not be subject to civil or criminal liability solely based upon the information provided through a registry check under this section. This immunity shall extend to a claim related to the facility's refusal to employ or contract with a person based on information obtained from a registry check.

(f) The department of health shall post no later than October 1, 2010 in a conspicuous location on its website as well as the website of the board for

licensing health care facilities a link to all databases listed in subdivisions (a)(1)-(3) above. In addition, the department of health shall notify all health care facilities annually through licensure renewals of their obligations under this section.

(g) The requirements of this section shall become effective on and after October 1, 2010.

SECTION 3. This act shall take effect on October 1, 2010, the public welfare requiring it.